



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 29 OF 2025

Central Bureau of Investigation,
Anti Corruption Branch,
GPOA, Kendriya Sadan, A-Wing,
3rd Floor, Opp. Akurdi Rly. Station,
Akurdi, Pune.

... Applicant

Versus

1. Shankar @ Sanjay D. Borokar,
Age Major, Occupation – Govt. Service,
r/o House No. 7, Shilpnagar, Beed Bypass,
Aurangabad.

2. Sudhir s/o Sambhaji Maldode,
Age 51 years, Occupation Govt. Service,
r/o House No. 7, Shilpnagar, Beed Bypass,
Aurangabad.

... Respondents/
Accused.

.....

Mr. S. S. Panale, Special Public Prosecutor for the Appellant.

Mr. Sohail Subhedar h/f Mr. N. S. Ghanekar, Advocate for
Respondent No.1.

Ms. Monica Bagwe h/f Mr. C. P. Sengaonkar, Advocate for
Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 01.04.2026

Pronounced on : 02.04.2026

ORDER :

1. The original informant - CBI hereby is keen in questioning the
judgment and order of acquittal passed by learned Sessions Judge-7,

Aurangabad dated 29.03.2017 in Special Case (ACB) No. 23/2008, and hence the leave application.

2. Learned counsel Mr. Panale would point out that, prosecution was launched against present respondents on receipt of complaint that, respondent-accused no.1, who was in service of Railway Police Force, had demanded bribe of Rs.15,000/- for permitting complainant, a travel agent, to buy railway tickets. That, on receipt of complaint to the above extent, CBI authorities planned trap and according to him, trap was also successful. He would point out that immediately after receipt of complaint, demand verification was done and thereafter, on getting convinced, main trap was laid. That, there was use of voice recorder. That, accused no.2 had accepted the bribe amount on behalf of accused no.1. That, in spite of convincing and legally acceptable evidence, it is his submission that, learned trial court acquitted the accused. According to him, there is incorrect appreciation of evidence and failure to consider the settled law. That, applicant has good case on merits in appeal and therefore, he urges to grant leave.

3. Both learned counsel for respondent nos. 1 and 2 respectively, would support the judgment and order of acquittal and would point

out that prosecution has miserably failed to bring home the charges. They also took this court through the judgment of trial court and would justify the acquittal.

4. Heard. Perused the papers. As stated, prosecution seems to have been launched against two accused persons under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988. Complaint seems to have been received by CBI, Nagpur from PW2, who was said to be running tours and travel business. According to him, on 24.04.2008, his office staff had been to the Railway Station for booking tickets. There, accused no.1 apprehended the staff on allegation of booking unauthorized tickets and further said that in order to avoid arrest, he has to pay money and thereby demanded Rs.15,000/-. Said staff reported it to the complainant, who claims to have interacted with accused no.1 on 18.05.2008 and paid him Rs.5,000/-. On 15.09.2008, his another office staff was restrained by accused no.1 and he demanded the remaining amount and complainant again met accused, who allegedly told him that his assistant accused no.2 would come to collect the remaining amount and even phone call was received from accused no.2 on 17.09.2008. Therefore, as complainant was not willing to pay the bribe, he contacted CBI, Nagpur, who planned trap by arranging panchas, by

making complainant and shadow pancha carry micro cassette tape recorder and complainant was asked to have conversation with accused no.2 on his mobile by putting it on speaker mode, and thereafter demand was got confirmed and main trap was planned by conducting the procedure of applying power to the currency and issuing necessary instructions to the complainant and pancha.

5. Accordingly, trap was laid in the vicinity of Railway Station, during which complainant and pancha no.1 went towards Tirupati hotel where accused no.2 was having tea and as per the say of complainant, accused no.2 attempted to contact accused no.1, but accused no.1 could not be contacted and thereafter, complainant took out money from pocket and gave it to accused who accepted it.

6. Prosecution has examined in all five witnesses, i.e. PW1 sanctioning authority; PW2 complainant; PW3 pancha no.1; PW4 API and PW5 IO.

7. Here, according to complainant, for demand verification, tape recorder was used, but it seems that there is no identification of voice of accused. Moreover, PW5 has admitted that he did not seize mobile during investigation and in cross he has admitted that he did not use

the same cassette recorder at the time of recording voice sample, nor he sent the recorder to the forensic laboratory.

8. Admittedly, it is emerging from the evidence of above witness that there was alleged demand by accused no.1 to the office staff, namely Sham Sarkate. However, said staff is not examined. Therefore on the point of initial demand, there is no evidence. Moreover, it is admitted position that, there were telephonic conversations regarding demand, but CDR is not apparently gathered. Further, though there was use of voice recorder, in support of its use, certificate as per Section 65-B of the Evidence Act is not placed on record.

9. Again, there is no demand by accused no.1 to complainant when there was conversation. Rather, there were only talks with accused no.2 when alleged demand was complied. At that point of time, accused no.1 was out of station. There is nothing to show that accused no.2 had acted at the behest of accused no.1.

10. Defence of accused is of thrusting. At the time of acceptance also, accused no.2 was holding a child with his right hand, and therefore, as pointed out, story of prosecution that amount was accepted by the right hand, is rendered doubtful.

11. Therefore, at this stage, by taking into consideration above points raised before this Court, and on going through the record as well as impugned judgment, with such quality of evidence, view taken by the learned trial court is the plausible view. No good point is raised on merits so as to accord leave. Hence, following order :

ORDER

- I. Leave refused.
- II. Application is dismissed.

[ABHAY S. WAGHWASE, J.]